

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JOE ANN WEST,

11 Plaintiff,

v.

12 SEAN J STACKLEY, Secretary of the
13 Department of the Navy,

Defendant.

CASE NO. C17-5273RBL

ORDER GRANTING MOTION TO
DISMISS

14 THIS MATTER is before the Court on Defendant Stackley's Motion to Dismiss. [Dkt. #
15 8], and on Plaintiff West's Motions for a Conference [Dkt. #26] and for Recusal of U.S. Attorney
16 Annette Hayes [Dkt. #27]. This is one of nine¹ cases West has filed related to her employment at
17 the Puget Sound Naval Shipyard in Bremerton, which ended in August 2016.
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19 ¹ The cases are:

20 *West v. Stackley*, C17-5246RBL,
21 *West v. Stackley*, C17-5273RBL,
22 *West v. Stackley*, C17-5366RBL,
23 *West v. Stackley*, C17-5367RBL,
24 *West v. Stackley*, C17-5368RBL,
West v. Sessions, C17-5426RBL,
West v. Stackley, C17-5510RBL.

Two prior cases (purported class actions) against the prior Secretary of the Navy, *West v Mabus*,
C16-5191RBL and *West v Mabus*, C16-5204RBL, were dismissed.

1 In this case, West complains generally about discrimination based on color and race (and
2 perhaps sex), and in retaliation for complaining about discrimination. She specifically claims that
3 three “Navy Lawyers,” including Alison McKay, engaged in a variety of unethical conduct
4 (having “ex parte contacts with EEOC OFO Director Robert Barnhart and EEOC Administrative
5 Judge Virginia MaGee”); sharing West’s person information across state lines; and practicing
6 law without a license):

7 **Department of Defense-Department of the Navy Lawyers Megan Weiss, Alison L. McKay and**
8 **David B. Gattis - all participated in violation of Rules of Ex Parte by having infinite and**
ongoing communications without sharing with my Representative or myself the complainant
and owner of the complainants.

9 **Department of Defense-Department of the Navy Lawyers Megan Weiss, Alison L. McKay and**
10 **David B. Gattis - all participated in violation of the Privacy Act of 1974 by sharing share EEO,**
11 **PII AND HIPAA’s information across states lines-California, Washington, Washington, D. C.**
and New Hampshire and unknown individuals without the need to know.

12 [Dkt. #1 at 1]

13 **Department of Defense-Department of the Navy’s EEO’S Officials and Legal Agents did not**
14 **disclose to me Alison L. McKay was not A Lawyer in the State of Washington or a member**
15 **of the Washington Bar Association. EEOC OFO Director Robert J. Barnhart, EEOC OFO**
16 **Director Carlton M. Hadden, EEO Officer Kay Wakabayashi, Human Resource Officer &**
17 **EEO Officer Rita Birang, EEOC Supervisor Administrative Judge Terrie B. Brodie, EEOC**
Administrative Judge Virginia M. MaGee, United States Congressional Liaison Richard L.
Tift, Agency Authorizing Official Mary P. Argenzio-West, lawyers Megan Weiss and David
B. Gattis tried to coverup and conceal Alison L. McKay’s Status with the Washington Bar
Association as an valid Washington State Bar Association Attorney.

18 [Dkt. #1 at 2].

19 West asserts claims for violation of her 5th and 14th amendment rights, violations of her
20 Title VII (42 U.S.C. § 2000 et seq.) rights. She claims she has exhausted her administrative
21 remedies and that she filed this action more than 180 days after she elected to have the EEOC
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1 hear her complaint. She also alleges that McKay violated the Privacy Act. She made similarly
2 conclusory allegations against other non-parties who also appear to be naval attorneys.

3 She mentions Defendant Stackley only once:

4 **SEAN J. STACKLEY is the Secretary of the United States Navy. As an employer of the**
5 **Federal Government, the defendant is empowered to prescribe regulations for the operation**
6 **of the Department of the Navy and the conduct of its employees, and is subject to the anti-**
7 **discrimination provisions of Title VII of the Civil Rights Act of 1964, as amended.**

8 [Dkt. #1; Paragraph 3.2]. She otherwise makes no effort to tie the person she sued to the actions
9 of which she complains.

10 Stackley seeks dismissal or a more definite statement of West's claims, claiming that she
11 has failed to state a plausible claim.

12 Dismissal under Rule 12(b)(6) may be based on either the lack of a cognizable legal
13 theory or the absence of sufficient facts alleged under a cognizable legal theory. *Balistreri v.*
14 *Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990). A plaintiff's complaint must allege
15 facts to state a claim for relief that is plausible on its face. *See Aschcroft v. Iqbal*, 129 S. Ct.
16 1937, 1949 (2009). A claim has "facial plausibility" when the party seeking relief "pleads factual
17 content that allows the court to draw the reasonable inference that the defendant is liable for the
18 misconduct alleged." *Id.* Although the Court must accept as true the Complaint's well-pled facts,
19 conclusory allegations of law and unwarranted inferences will not defeat a Rule 12(c) motion.
20 *Vazquez v. L. A. County*, 487 F.3d 1246, 1249 (9th Cir. 2007); *Sprewell v. Golden State*
21 *Warriors*, 266 F.3d 979, 988 (9th Cir. 2001). "[A] plaintiff's obligation to provide the 'grounds'
22 of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic
23 recitation of the elements of a cause of action will not do. Factual allegations must be enough to
24 raise a right to relief above the speculative level." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555
(2007) (citations and footnotes omitted). This requires a plaintiff to plead "more than an

1 unadorned, the-defendant-unlawfully-harmed-me-accusation.” *Iqbal*, 129 S. Ct. at 1949 (citing
2 *Twombly*). A *pro se* Plaintiff’s complaint is to be construed liberally, but like any other
3 complaint it must nevertheless contain factual assertions sufficient to support a facially plausible
4 claim for relief. *Id.*

5 On a 12(b)(6) motion, “a district court should grant leave to amend even if no request to
6 amend the pleading was made, unless it determines that the pleading could not possibly be cured
7 by the allegation of other facts.” *Cook, Perkiss & Liehe v. N. Cal. Collection Serv.*, 911 F.2d 242,
8 247 (9th Cir. 1990). However, where the facts are not in dispute, and the sole issue is whether
9 there is liability as a matter of substantive law, the court may deny leave to amend. *Albrecht v.*
10 *Lund*, 845 F.2d 193, 195–96 (9th Cir. 1988).

11 West’s Response is a regurgitation of her repeated claim that Alison McKay practiced
12 law in this state without a license for 16 years. Even if that were true (and there is no indication
13 that it is), this is wholly insufficient as a matter of law to state a plausible constitutional (or any
14 other) claim by West *against Defendant Sean Stackley*. She does not even address the arguments
15 made by that defendant in his motion to dismiss: she does not mention the Privacy Act, or the
16 “who what when where and how” of her claim that someone improperly sent her medical
17 information to someone else, or why. Her complaint and her Response (and all of her other
18 filings) are simply void of facts. She does not even claim that the *defendant* harmed her; she
19 claims that various lawyers violated their ethical duties. That is not a plausible claim, no matter
20 how liberally her conclusory accusations are read.

21 The Motion to Dismiss is therefore GRANTED. West has filed 9 complaints related to
22 her employment and its termination. She has filed countless motions and responses, all with the
23 same theme and all with the same fatal flaws. There is nothing that she could add or correct by
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1 way of yet another bite at the apple to cure these defects. Her claims are DISMISSED with
2 prejudice and without leave to amend.

3 West also asks for a “conference” on all of her cases. Her request appears to be based on
4 the fact that the United States gets more time to respond to a complaint than other defendants,
5 under the Federal Rules of Civil Procedure. She claims that the US attorney representing
6 Stackley is manipulating the time frames to harm her, and points out that *pro se* plaintiffs are
7 entitled to a liberal reading of their filings. While the Court acknowledges the later point, there is
8 no basis for a “conference” about the Rules or the time frames they impose. The Motion for a
9 Conference [Dkt. #26] is **DENIED**.

10 Finally West seeks “recusal” of U.S. Attorney Annette Hayes, for reasons that are not
11 clear:

12 With additional research and this matter it has come to my attention that United States Attorney
13 Annette L. Hayes, WSBA # 21007 with her subordinate U.S. Assistant Sarah K. Morehead,
14 WSBA # 29680 (Jenny Anne Durkan, WSBA# 15751 was the previous U. S. Attorney; previous
15 U.S. Assistant Attorney Jamal N. Whitehead, WSBA # 39818) has violated Rules of Civil
16 Procedures, The Washington States Bar Association By Laws, The Seventh Amendment of the
United States Constitution and over ruled the Constitution of the United States in the TITLE 28 -

17 “JUDICIARY AND JUDICIAL PROCEDURES” § 503. Attorney General-PRIOR
18 PROVISIONS (a) (b) and § 2284 of title 28, United States Code (Where as one Civil Action
against Jefferson B. Sessions not the Department of Justice.). United States Attorney Annette L.
19 Hayes, WSBA # 21007 cannot be impartial or fair. This is clearly a “Conflict of Interest and
Obstruction of Justice.” See Exhibit 1 (Note: Exhibits to this document are not attached if during
20 discovery a request is made it will be provided.)

22 [Dkt. #27] West has not made any showing, whatsoever, that any of the defense counsel have or
23 reasonably appear to have any bias or prejudice against her, or that they have engaged in any of
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1 the “violations” of which she vehemently and repeatedly accuses them. The Motion for Recusal
2 [Dkt. #27] is **DENIED**.

3 This matter is closed.

4 IT IS SO ORDERED.

5 Dated this 19th day of September, 2017.

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Ronald B. Leighton
United States District Judge

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